

AN ACT

To amend sections 321.45, 323.12, 323.25, 323.31, 5711.33, 5715.39, 5719.03, 5721.14, 5721.18, and 5721.25 and to enact sections 321.48 and 5721.30 of the Revised Code to permit all real property taxpayers to participate in a system for prepayment of taxes, to change the terms under which delinquent taxes are payable in installments after the property is certified for foreclosure action, to allow delinquent taxes charged against minerals to be deemed uncollectible after five years and removed from the tax list, and to make other changes to the county treasurer law.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 321.45, 323.12, 323.25, 323.31, 5711.33, 5715.39, 5719.03, 5721.14, 5721.18, and 5721.25 be amended and sections 321.48 and 5721.30 of the Revised Code be enacted to read as follows:

Sec. 321.45. (A) As used in this section:

(1) "Taxpayer" means any person in whose name a parcel of ~~residential~~ property is listed on the tax duplicate.

(2) "Prepayment" means any amount given to the county treasurer by a taxpayer under this section for the treasurer to apply as payment of the taxpayer's total taxes due in accordance with this section.

(3) "Taxes," "delinquent taxes," and "current taxes" have the same meanings as in section 323.01 of the Revised Code.

(4) "Duplicate" means the treasurer's duplicate of real and public utility property.

(5) "Total taxes due" means all delinquent taxes and that portion of current taxes that, in order to avoid a penalty, are required to be paid by the next date that is the last date on which an installment of taxes may be paid without penalty.

~~oubles, and apartment buildings with not more than six units and the land on which those dwellings are located.~~

(B)(1) A county treasurer may enter into a written agreement with any taxpayer, upon mutually agreed ~~upon~~ on terms and conditions, under which both of the following occur:

(a) The taxpayer agrees to tender prepayments of taxes on a parcel of ~~residential~~ property for which he is listed on the tax duplicate in the name of the taxpayer;

(b) The treasurer agrees to accept the prepayments and hold them either in an escrow fund or a separate depository account until the last day that an installment of current taxes may be paid without penalty, at which time ~~he~~ the treasurer further agrees to apply, in payment of the total taxes due on the parcel, an amount of the prepayments that equals the total taxes due on the parcel. If a discount is not given under division (B)(2) of this section, any earnings on prepayments in an escrow fund or depository account shall be paid to the credit of a special interest account to be used by the treasurer only for the payment of the expenses incurred in establishing and administering the system for collecting prepayments under division (B)(1) of this section.

(2) In addition to providing for the items enumerated in division (B)(1) of this section, the agreement may provide for the treasurer to invest prepayments held in the escrow fund or depository account, subject to Chapter 135. of the Revised Code, and apply the investment earnings thereon, after deducting an amount to pay the expenses incurred by the treasurer in establishing and administering the prepayment system, as a discount against the total taxes due of each taxpayer entering into such an agreement. The balance applied to the discounts shall be apportioned among taxpayers in such a manner that the discount credited to a taxpayer for each parcel of ~~residential~~ real property for which taxes are prepaid is commensurate with the amount of current taxes due and the length of time current taxes are held in escrow. Discounts accruing to prepayments made for a tax year shall be applied against total taxes due for the ensuing tax year. No discount shall be apportioned to a taxpayer who fails to pay the total taxes due or fails to make prepayments pursuant to the terms of the agreement.

(C) A prepayment accepted by a treasurer under an agreement under division (B) of this section does not constitute a payment of taxes until it is applied toward the payment of taxes as provided in this section. A separate prepayment agreement is required for each parcel of ~~residential~~ property, except that a taxpayer who makes prepayments on more than one parcel

may enter into a single agreement covering all of the parcels. The single agreement shall specify the manner in which each prepayment shall be apportioned among the parcels. The treasurer shall keep a separate record for each parcel showing the date and amount of each prepayment.

(D) No treasurer shall fail to apply prepayments toward the payment of taxes as required pursuant to an agreement entered into under division (B) of this section; however, the total amount of prepayments shall equal or exceed the total taxes due, less any discount applied for a previous period under division (B)(2) of this section.

(E) The treasurer shall give each person who makes a tax prepayment in person at the office of the county treasurer a receipt in the form that the prepayment agreement requires. The treasurer shall give a receipt to a person who makes a tax prepayment to the treasurer by mail only if the taxpayer encloses with the prepayment an addressed envelope with sufficient postage, in which case the treasurer shall insert a receipt for the prepayment in that envelope and deposit it in the mail. The treasurer may refund any amount tendered as a prepayment if the taxpayer so requests and files with the treasurer an affidavit and the supporting documents the treasurer requires providing that the taxpayer no longer owns the property. The request for the refund shall be made prior to the date of the mailing of a tax bill and escrow statement to the taxpayer. If a taxpayer who has entered into a prepayment agreement pursuant to this section dies before the last day on which an installment of current taxes may be paid without penalty, the treasurer may refund the amount of any prepayments made by that taxpayer to the executor or administrator of the taxpayer's estate.

(F) If the treasurer has received any prepayments from a taxpayer, the treasurer shall add to the tax bill required by section 323.13 of the Revised Code a tax escrow statement that shall specify the total amount of prepayments received by the treasurer on or before the date the statement was prepared, the balance of total taxes due for which no prepayment has been received, the amount of any discount to be applied to total taxes due, and the date the statement was prepared.

(G) If the total amount of a taxpayer's prepayments to the treasurer made on or before the final date an installment of taxes may be paid without penalty do not equal or exceed the total taxes due on that date, the taxpayer is not relieved of any late penalty or interest otherwise due pursuant to section 323.121 of the Revised Code. If the treasurer fails to apply prepayments received by ~~his~~ the treasurer's office in accordance with the terms of an agreement and the total amount of the taxpayer's prepayments equals or exceeds the total taxes due, the taxpayer is relieved of any late

penalty or interest imposed under section 323.121 of the Revised Code.

(H) The office of the county treasurer shall bear all of the costs of establishing and administering a system for collecting prepayments as permitted by this section.

(I) Before the county treasurer commences a prepayment system, the tax commissioner shall approve all procedures and forms to be used in the system.

(J) The treasurer may enter into any agreements necessary to enable the taxpayer to make prepayments of taxes to the office of the treasurer through the electronic transfer of funds from an account in the name of the taxpayer at a financial institution.

Sec. 321.48. A county treasurer may assess a fee not exceeding an amount equal to five dollars plus any amount passed on from a financial institution on a drawer or indorser for each check, draft, or money order returned or dishonored, or automatic bank TRANSFER declined, due to insufficient funds or for any other reason. The county treasurer shall deposit in the general fund of the county any fee collected under this section.

Sec. 323.12. (A) Each person charged with taxes shall pay to the county treasurer the full amount of such taxes on or before the thirty-first day of December, or shall pay one-half of the current taxes together with the full amount of any delinquent taxes before such date, and the remaining half on or before the twentieth day of June next ensuing.

When taxes are paid by installments, each payment shall be apportioned among the several funds for which taxes have been assessed.

(B) A tax is paid on or before the dates set forth in this section if the tax payment is received by the county treasurer or if prepayments are applied by the treasurer toward the payment of taxes as provided by section 321.45 of the Revised Code on or before the last day for payment of such tax, or if the tax payment is received after such date in an envelope that was postmarked by the United States postal service on or before the last day for payment of such tax. In the event there is more than one date of postmark on the envelope, the earliest date imprinted by the United States postal service shall be the date of payment. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

(C) The treasurer may delay the closing of ~~his~~ the treasurer's books for any collection period for the purpose of receiving and processing such payments.

Sec. 323.25. When taxes charged against an entry on the tax duplicate, or any part of such taxes, are not paid within sixty days after delivery of the delinquent land duplicate to the county treasurer as prescribed by section

5721.011 of the Revised Code, the county treasurer shall enforce the lien for such taxes by civil action in ~~his name~~ the treasurer's official capacity as treasurer, for the sale of such premises, in the court of common pleas of the county in the same way mortgage liens are enforced. If the delinquent land duplicate lists minerals or rights to minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 of the Revised Code, the county treasurer may enforce the lien for taxes against such minerals or rights to minerals by civil action, in the treasurer's official capacity as treasurer, in the manner prescribed by this section, or proceed as provided under section 5721.30 of the Revised Code.

if service by publication is necessary, such publication shall be made once a week for three consecutive weeks instead of as provided by the Rules of Civil Procedure, and the service shall be complete at the expiration of three weeks after the date of the first publication. If the prosecuting attorney determines that service upon a defendant may be obtained ultimately only by publication, ~~he~~ the prosecuting attorney may cause service to be made simultaneously by certified mail, return receipt requested, ordinary mail, and publication, ~~simultaneously~~. The treasurer shall not enforce the lien for taxes against real property that is the subject of an application for exemption from taxation under section 5715.27 of the Revised Code and that does not appear on the delinquent land duplicate.

Upon application of the plaintiff, the court shall advance such cause on the docket, so that it may be first heard.

Sec. 323.31. (A) Delinquent taxes charged against any entry of real property may be paid pursuant to this division by the person who owns the real property or is a vendee in possession under a purchase agreement or land contract after entering into a written undertaking with the county treasurer in a form prescribed or approved by the tax commissioner. The undertaking may be entered into at any time prior to the county prosecuting attorney's commencement of foreclosure proceedings pursuant to section 323.25 or 5721.18 of the Revised Code; or commencement of foreclosure and forfeiture proceedings pursuant to section 5721.14 of the Revised Code. A duplicate copy of each such undertaking shall be filed with the county auditor, who shall attach ~~such~~ the copy to the delinquent land tax certificate or delinquent vacant land tax certificate, or who shall enter an asterisk in the margin next to the entry for the tract or lot on the master list of delinquent tracts or master list of delinquent vacant tracts, prior to filing it with the prosecuting attorney under section 5721.13 of the Revised Code. If the undertaking is entered into after the certificate or the master list has been filed with the prosecuting attorney, the treasurer shall file the duplicate copy

with the prosecuting attorney.

An undertaking entered into under this division shall provide for the payment of delinquent taxes in installments over a period not to exceed five years beginning on the earliest date delinquent taxes that are the subject of the undertaking were included in a certification under section 5721.011 of the Revised Code; however, a person entering into an undertaking who owns and occupies residential real property may request, and the treasurer shall allow, an undertaking providing for payment in installments over a period of no fewer than two years beginning on that date. ~~For~~

For each undertaking, the county treasurer shall determine, and shall specify in the undertaking, the number of installments, the amount of each installment, and the schedule for payment of the installments. Each

~~Each~~ installment payment shall be apportioned among the several funds for which taxes have been assessed and shall be applied to the items of taxes charged in the order in which they became due.

When an installment payment is not received by the treasurer when due or any current taxes charged against the property become delinquent, the undertaking becomes void unless the treasurer permits a new undertaking to be entered into; if the treasurer does not permit a new undertaking to be entered into, the treasurer shall certify to the auditor that the undertaking has become void. A new undertaking entered into under this paragraph shall provide for payment of the outstanding balance of delinquent taxes over a period that, when added to the periods of any previous undertakings that had elapsed prior to their becoming void, does not exceed ten years.

Upon receipt of such a certification, the auditor shall destroy ~~his~~ the duplicate copy of the undertaking. If such copy has been filed with the prosecuting attorney, the auditor immediately shall deliver the certification to the prosecuting attorney, who shall attach it to the appropriate certificate and the duplicate copy of the voided undertaking or strike through the asterisk entered in the margin of the master list next to the entry for the tract or lot that is the subject of the voided undertaking. The prosecuting attorney then shall institute a proceeding to foreclose the lien of the state in accordance with section 323.25 or 5721.18 of the Revised Code or, in the case of delinquent vacant land, shall institute a foreclosure proceeding in accordance with section 323.25 or 5721.18 of the Revised Code, or a foreclosure and forfeiture proceeding in accordance with section 5721.14 of the Revised Code.

(B) Within ten days after the date prescribed by section 323.12 or 323.17 of the Revised Code for payment of the first half installment of the current taxes, any person failing to pay the amount required by such date,

with the consent of the treasurer, may enter into a written undertaking with the treasurer, in a form prescribed by the tax commissioner, to pay all current taxes pursuant to this division. The agreement shall provide for the entire amount of such taxes to be paid in three or fewer installments before the date set by section 323.12 or 323.17 of the Revised Code for the payment of the second installment of such taxes. Each payment made under this division shall be not less than one-third of the total amount of the current taxes, unless the collection of a particular tax has been legally enjoined, or unless at any scheduled payment date less than one-third of the total amount remains unpaid, in which case the total balance shall be paid.

If a payment is not received by the treasurer when due under the terms of an undertaking made under this division, the treasurer may permit the taxpayer to make the payment at a later date, provided the payment is received before the date set by section 323.12 or 323.17 of the Revised Code for the payment of the second installment of current taxes. If the total taxes arranged to be paid pursuant to such an undertaking are not received before such date, the undertaking shall become void and the treasurer shall proceed to collect all unpaid taxes then due by any other means provided by law.

Sec. 5711.33. (A)(1) When a county treasurer receives a certificate from a county auditor pursuant to division (A) of section 5711.32 of the Revised Code charging ~~him~~ the treasurer with the collection of an amount of taxes due as the result of a deficiency assessment, ~~he~~ the treasurer shall immediately prepare and mail a tax bill to the taxpayer owing such tax. The tax bill shall contain the name of the taxpayer; the taxable value, tax rate, and taxes charged for each year being assessed; the total amount of taxes due; the final date payment may be made without additional penalty; and any other information the treasurer considers pertinent or necessary. Taxes due and payable as a result of a deficiency assessment, less any amount specifically excepted from collection under division (B) of section 5711.32 of the Revised Code, shall be paid with interest thereon as prescribed by section 5719.041 of the Revised Code on or before the sixtieth day following the date of issuance of the certificate by the county auditor. The balance of taxes found due and payable after a final determination by the tax commissioner or a final judgment of the board of tax appeals or any court to which such final judgment may be appealed, shall be paid with interest thereon as prescribed by section 5719.041 of the Revised Code on or before the sixtieth day following the date of certification by the auditor to the treasurer pursuant to division (C) of section 5711.32 of the Revised Code of such final determination or judgment. Such final dates for payment shall be determined and exhibited on the tax bill by the treasurer.

(2) If on or before the sixtieth day following the date of a certification of a deficiency assessment under division (A) of section 5711.32 of the Revised Code or of a certification of a final determination or judgment under division (C) of section 5711.32 of the Revised Code, the taxpayer pays the full amount of taxes and interest due at the time of the receipt of certification with respect to that assessment, determination, or judgment, no interest shall accrue or be charged with respect to that assessment, determination, or judgment for the period that begins on the first day of the month in which the certification is made and that ends on the last day of the month preceding the month in which such sixtieth day occurs.

(B) When the taxes charged, as mentioned in division (A) of this section, are not paid within the time prescribed by such division, a penalty of ten per cent of the amount due and unpaid and interest for the period described in division (A)(2) of this section shall accrue at the time the treasurer closes ~~his~~ the treasurer's office for business on the last day so prescribed, but if the taxes are paid within ten days subsequent to the last day prescribed, the treasurer shall waive the collection of and the auditor shall remit one-half of the penalty. The treasurer shall not thereafter accept less than the full amount of taxes and penalty except as otherwise authorized by law. Such penalty shall be distributed in the same manner and at the same time as the tax upon which it has accrued. The whole amount collected shall be included in the next succeeding settlement of appropriate taxes.

(C) When the taxes charged, as mentioned in division (A) of this section, remain unpaid after the final date for payment prescribed by such division, such charges shall be deemed to be delinquent taxes. The county auditor shall cause such charges, including the penalty ~~which~~ that has accrued pursuant to this section, to be added to the delinquent tax duplicate in accordance with section 5719.04 of the Revised Code.

(D) The county auditor, upon consultation with the county treasurer, shall remit a penalty imposed under division (B) of this section or division (C) of section 5719.03 of the Revised Code for the late payment of taxes when:

(1) The taxpayer could not make timely payment of the tax because of the negligence or error of the auditor or treasurer in the performance of a statutory duty relating to the levy or collection of such tax.

(2) In cases other than those described in division (D)(1) of this section, the taxpayer failed to receive a tax bill or a correct tax bill, and the taxpayer made a good faith effort to obtain such bill within thirty days after the last day for payment of the tax.

(3) The tax was not timely paid because of the death or serious injury of

the taxpayer, or ~~his~~ the taxpayer's confinement in a hospital within sixty days preceding the last day for payment of the tax; if, in any case, the tax was subsequently paid within sixty days after the last day for payment of such tax.

(4) The taxpayer demonstrates to the satisfaction of the auditor that the full payment was properly deposited in the mail in sufficient time for the envelope to be postmarked by the United States postal service on or before the last day for payment of such tax. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

(E) The taxpayer ~~may~~, upon application, may request the tax commissioner to review the denial of the remission of a penalty by the auditor. The commissioner shall consider the application, determine whether the penalty should be remitted, and certify ~~his~~ the determination to the taxpayer and to the treasurer and auditor who shall correct the tax list and duplicate accordingly. The commissioner shall issue orders and instructions for the uniform implementation of this section by all auditors and treasurers, and such orders and instructions shall be followed by such officers.

Sec. 5715.39. The tax commissioner may remit real property taxes, penalties, and interest found by ~~him~~ the commissioner to have been illegally assessed. The commissioner also may remit any penalty charged against any real property that was the subject of an application for exemption from taxation under section 5715.27 of the Revised Code if the commissioner determines that the applicant requested such exemption in good faith. The commissioner shall include notice of the remission in ~~his~~ the commissioner's certification to the county auditor required under that section.

The commissioner, on application by a taxpayer, shall remit a penalty for late payment of any real property taxes when:

(A) The taxpayer could not make timely payment of the tax because of the negligence or error of the auditor or treasurer in the performance of a statutory duty relating to the levy or collection of such tax.

(B) In cases other than those described in division (A) of this section, the taxpayer failed to receive a tax bill or a correct tax bill, and the taxpayer made a good faith effort to obtain such bill within thirty days after the last day for payment of the tax.

(C) The tax was not timely paid because of the death or serious injury of the taxpayer, or ~~his~~ the taxpayer's confinement in a hospital within sixty days preceding the last day for payment of the tax; if, in any case, the tax was subsequently paid within sixty days after the last day for payment of such tax.

(D) The taxpayer demonstrates to the satisfaction of the commissioner that the full payment was properly deposited in the mail in sufficient time for the envelope to be postmarked by the United States postal service on or before the last day for payment of such tax. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

The commissioner shall consider the application, determine whether the penalty should be remitted, and certify ~~his~~ the determination to the taxpayer, to the county treasurer, and to the county auditor, who shall correct the tax list and duplicate accordingly.

This section shall not provide to the taxpayer any remedy with respect to any matter ~~which he~~ that the taxpayer may be authorized to complain of under ~~the provisions of~~ sections 5715.19, 5717.02, and 5727.47 of the Revised Code.

Applications for remission, and documents of any kind related to those applications, filed with the tax commissioner under this section, are public records within the meaning of section 149.43 of the Revised Code, unless otherwise excepted under that section.

Sec. 5719.03. (A) The county auditor shall preserve all receipts showing the advance payment of taxes. At the time of making up the general personal and the classified tax list and duplicate, ~~he~~ the auditor shall enter thereon opposite the name of each person charged with taxes the amount of the advance payment made, as a credit against the amount of taxes charged thereon against such person.

(B) Each person charged with taxes on a general personal property or a classified property tax duplicate shall pay the full amount of such taxes, less the amount of advance payment credited on the duplicate, on or before the twentieth day of September, or a day as extended pursuant to section 5719.031 of the Revised Code.

(C) A tax is paid on or before the dates set forth in this section if the tax payment is received by the county treasurer on or before the last day for payment of such tax, or is received after such date in an envelope that was postmarked by the United States postal service on or before the last day for payment of such tax. In the event there is more than one date of postmark on the envelope, the earliest date imprinted by the United States postal service shall be the date of payment. A private meter postmark on an envelope is not a valid postmark for purposes of establishing the date of payment of such tax.

(D) When an installment of taxes is not paid within the time prescribed by this section, or within the time so prescribed as extended pursuant to

tion 5719.031 of the Revised Code, a penalty of ten per cent of the amount due and unpaid shall accrue when the county treasurer closes ~~his~~ the treasurer's office for business on the last day so prescribed, but if the taxes are paid within ten days subsequent to the last day prescribed, the treasurer shall waive the collection of, and the auditor shall remit one-half of, the penalty. The treasurer shall not thereafter accept less than the full amount of taxes and penalty, except as provided in division (E) of this section or section 5719.05, 5711.32, or 5711.33 of the Revised Code.

(E) Any partial payment of taxes tendered to a county treasurer may be accepted if the treasurer determines that the amount tendered was intended by the taxpayer to be equal to the amount due but is more or less than such amount as a result of what appears to the treasurer to be an obvious taxpayer error. The treasurer may accept a partial payment in which the only unpaid amount is the amount of a penalty for late payment provided the taxpayer files with the payment a copy of ~~his~~ the taxpayer's application to the auditor for a remission of the penalty or the payment is received within ten days of the last date the taxes could have been paid without penalty. Any overpayment shall be refunded by the treasurer in the manner most convenient to the treasurer. When the amount tendered and accepted is less than the amount due, the unpaid balance shall be treated as other unpaid taxes; and, except when the unpaid amount is the penalty, the treasurer shall notify the taxpayer of such deficiency.

Sec. 5721.14. Subject to division (A)(2) of this section, on receipt of a delinquent vacant land tax certificate or a master list of delinquent vacant tracts, a county prosecuting attorney shall institute a foreclosure proceeding under section 323.25 or 5721.18 of the Revised Code, or a foreclosure and forfeiture proceeding under this section. If the delinquent vacant land tax certificate or a master list of delinquent vacant tracts lists minerals or rights to minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 of the Revised Code, the county prosecuting attorney may institute a foreclosure PROCEEDING under section 323.25 or 5721.18 of the Revised Code or a foreclosure and forfeiture proceeding under this section against such minerals or rights to minerals.

(A)(1) The prosecuting attorney shall institute a proceeding under this section by filing, in the name of the county treasurer and with the clerk of a court with jurisdiction, a complaint that requests that the lien of the state on the property identified in the certificate or master list be foreclosed and that the property be forfeited to the state. ~~He~~ The prosecuting attorney shall prosecute the proceeding to final judgment and satisfaction.

(2) If the delinquent taxes, assessments, charges, penalties, and interest

are paid prior to the time a complaint is filed, the prosecuting attorney shall not institute a proceeding under this section. If there is a copy of a written undertaking attached to the certificate or an asterisk next to an entry on the master list, or if a copy of an undertaking is received from the county auditor prior to the commencement of the proceeding under this section, the prosecuting attorney shall not institute the proceeding under this section; unless ~~he~~ the prosecuting attorney receives a certification of the county treasurer that the undertaking has become void.

(B) Foreclosure and forfeiture proceedings constitute an action in rem. Prior to filing such an action in rem, the county prosecuting attorney shall cause a title search to be conducted for the purpose of identifying any lienholders or other persons with interests in the property that is subject to foreclosure and forfeiture. Following the title search, the action in rem shall be instituted by filing in the office of the clerk of a court with jurisdiction a complaint bearing a caption substantially in the form set forth in division (A) of section 5721.15 of the Revised Code.

Any number of parcels may be joined in one action. Each separate parcel included in a complaint shall be given a serial number and shall be separately indexed and docketed by the clerk of the court in a book kept by the clerk for such purpose. A complaint shall contain the permanent parcel number of each parcel included in it, the full street address of the parcel when available, a description of the parcel as set forth in the certificate or master list, the name and address of the last known owner of the parcel if they appear on the general tax list, the name and address of each lienholder and other person with an interest in the parcel identified in the title search relating to the parcel that is required by this division, and the amount of taxes, assessments, charges, penalties, and interest due and unpaid with respect to the parcel. It is sufficient for the county treasurer to allege in ~~his~~ the complaint that the certificate or master list has been duly filed by the county auditor with respect to each parcel listed, that the amount of money with respect to each parcel appearing to be due and unpaid is due and unpaid, and that there is a lien against each parcel, without setting forth any other or special matters. The prayer of the complaint shall be that the court issue an order that the lien of the state on each of the parcels included in the complaint be foreclosed, that the property be forfeited to the state, and that the land be offered for sale in the manner provided in section 5723.06 of the Revised Code.

(C) Within thirty days after the filing of a complaint, the clerk of the court in which the complaint was filed shall cause a notice of foreclosure and forfeiture substantially in the form of the notice set forth in division (B)

of section 5721.15 of the Revised Code to be published once a week for three consecutive weeks in a newspaper of general circulation in the county. In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the county prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure and forfeiture proceeding to the interested parties. If the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

After the third publication, the publisher shall file with the clerk of the court an affidavit stating the fact of the publication and including a copy of the notice of foreclosure and forfeiture as published. Service of process for purposes of the action in rem shall be considered as complete on the date of the last publication.

Within thirty days after the filing of a complaint and before the date of the final publication of the notice of foreclosure and forfeiture, the clerk of the court also shall cause a copy of a notice substantially in the form of the notice set forth in division (C) of section 5721.15 of the Revised Code to be mailed by ordinary mail, with postage prepaid, to each person named in the complaint as being the last known owner of a parcel included in it, or as being a lienholder or other person with an interest in a parcel included in it. The notice shall be sent to the address of each such person, as set forth in the complaint, and the clerk shall enter the fact of such mailing upon the appearance docket. If the name and address of the last known owner of a parcel included in a complaint is not set forth in it, the county auditor shall file an affidavit with the clerk stating that the name and address of the last known owner does not appear on the general tax list.

(D)(1) An answer may be filed in a foreclosure and forfeiture proceeding by any person owning or claiming any right, title, or interest in, or lien upon, any parcel described in the complaint. The answer shall contain the caption and number of the action and the serial number of the parcel concerned. The answer shall set forth the nature and amount of interest claimed in the parcel and any defense or objection to the foreclosure of the lien of the state for delinquent taxes, assessments, charges, penalties, and interest, as shown in the complaint. The answer shall be filed in the office of the clerk of the court, and a copy of the answer shall be served on the county prosecuting attorney not later than twenty-eight days after the date of final publication of the notice of foreclosure and forfeiture. If an answer is not filed within such time, a default judgment may be taken as to

any parcel included in a complaint as to which no answer has been filed. A default judgment is valid and effective with respect to all persons owning or claiming any right, title, or interest in, or lien upon, any such parcel, notwithstanding that one or more of such persons are minors, incompetents, absentees or nonresidents of the state, or convicts in confinement.

(2)(a) A receiver appointed pursuant to divisions (C)(2) and (3) of section 3767.41 of the Revised Code may file an answer pursuant to division (D)(1) of this section, but is not required to do so as a condition of receiving proceeds in a distribution under division (B)(2) of section 5721.17 of the Revised Code.

(b) When a receivership under section 3767.41 of the Revised Code is associated with a parcel, the notice of foreclosure and forfeiture set forth in division (B) of section 5721.15 of the Revised Code and the notice set forth in division (C) of that section shall be modified to reflect the provisions of division (D)(2)(a) of this section.

(E) At the trial of a foreclosure and forfeiture proceeding, the delinquent vacant land tax certificate or master list of delinquent vacant tracts filed by the county auditor with the county prosecuting attorney shall be prima-facie evidence of the amount and validity of the taxes, assessments, charges, penalties, and interest appearing due and unpaid on the parcel to which the certificate or master list relates and their nonpayment. If an answer is properly filed, the court may, in its discretion, and shall, at the request of the person filing the answer, grant a severance of the proceedings as to any parcel described in such answer for purposes of trial or appeal.

(F) The conveyance by the owner of any parcel against which a complaint has been filed pursuant to this section at any time after the date of publication of the parcel on the delinquent vacant land tax list but before the date of a judgment of foreclosure and forfeiture pursuant to section 5721.16 of the Revised Code shall not nullify the right of the county to proceed with the foreclosure and forfeiture.

Sec. 5721.18. The county prosecuting attorney, upon the delivery to ~~him~~ the prosecuting attorney by the county auditor of a delinquent land or delinquent vacant land tax certificate, or of a master list of delinquent or delinquent vacant tracts, shall institute a foreclosure proceeding under this section in the name of the county treasurer to foreclose the lien of the state, in any court with jurisdiction, unless the taxes, assessments, charges, penalties, and interest are paid prior to the time a complaint is filed, or unless a foreclosure or foreclosure and forfeiture action has been or will be instituted under section 323.25 or 5721.14 of the Revised Code. ~~He~~ if the delinquent land or delinquent vacant land tax certificate or the master list of

delinquent or delinquent vacant tracts lists minerals or rights to minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 of the Revised Code, the county prosecuting attorney may institute a foreclosure PROCEEDING in the name of the county treasurer, in any court with jurisdiction, to foreclose the lien of the state against such minerals or rights to minerals, unless the taxes, assessments, charges, penalties, and interest are paid prior to the time the complaint is filed, or unless a foreclosure or foreclosure and forfeiture action has been or will be instituted under section 323.25 or 5721.14 of the Revised Code.

The prosecuting attorney shall prosecute the proceeding to final judgment and satisfaction. If there is a copy of a written undertaking attached to the certificate or an asterisk next to an entry on the master list, or if a copy of an undertaking is received from the auditor prior to the commencement of the proceeding under this section, the prosecuting attorney shall not institute the proceeding under this section, unless ~~he~~ the prosecuting attorney receives a certification of the treasurer that the undertaking has become void.

(A) This division applies to all foreclosure proceedings not instituted and prosecuted under section 323.25 of the Revised Code or division (B) or (C) of this section. The foreclosure proceedings shall be instituted and prosecuted in the same manner as is provided by law for the foreclosure of mortgages on land, except that, if service by publication is necessary, such publication shall be made once a week for three consecutive weeks instead of as provided by the Rules of Civil Procedure, and the service shall be complete at the expiration of three weeks after the date of the first publication. In any proceeding prosecuted under this section, if the prosecuting attorney determines that service upon a defendant may be obtained ultimately only by publication, ~~he~~ the prosecuting attorney may cause service to be made simultaneously by certified mail, return receipt requested, ordinary mail, and publication, ~~simultaneously~~.

In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure proceeding to the interested parties. If the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

It is sufficient, having been made a proper party to the foreclosure proceeding, for the treasurer to allege in ~~his~~ the treasurer's complaint that the certificate or master list has been duly filed by the auditor, that the amount

of money appearing to be due and unpaid is due and unpaid, and that there is a lien against the property described in the certificate or master list, without setting forth in ~~his~~ the complaint any other or special matter relating to the foreclosure proceeding. The prayer of the complaint shall be that the court issue an order that the property be sold by the sheriff, or if the action is in the municipal court by the bailiff, in the manner provided in section 5721.19 of the Revised Code.

In the foreclosure proceeding, the treasurer may join in one action any number of lots or lands, but the decree shall be rendered separately, and any proceedings may be severed, in the discretion of the court, for the purpose of trial or appeal, and the court shall make such order for the payment of costs as is considered proper. The certificate or master list filed by the auditor with the prosecuting attorney is prima-facie evidence at the trial of the foreclosure action of the amount and validity of the taxes, assessments, charges, penalties, and interest appearing due and unpaid and of their nonpayment.

(B) Foreclosure proceedings constituting an action in rem may be commenced by the filing of a complaint after the end of the second year from the date on which the delinquency was first certified by the auditor. Prior to filing such an action in rem, the prosecuting attorney shall cause a title search to be conducted for the purpose of identifying any lienholders or other persons with interests in the property subject to foreclosure. Following the title search, the action in rem shall be instituted by filing in the office of the clerk of a court with jurisdiction a complaint bearing a caption substantially in the form set forth in division (A) of section 5721.181 of the Revised Code.

Any number of parcels may be joined in one action. Each separate parcel included in a complaint shall be given a serial number and shall be separately indexed and docketed by the clerk of the court in a book kept by the clerk for such purpose. A complaint shall contain the permanent parcel number of each parcel included in it, the full street address of the parcel when available, a description of the parcel as set forth in the certificate or master list, the name and address of the last known owner of the parcel if they appear on the general tax list, the name and address of each lienholder and other person with an interest in the parcel identified in the title search relating to the parcel that is required by this division, and the amount of taxes, assessments, charges, penalties, and interest due and unpaid with respect to the parcel. It is sufficient for the treasurer to allege in ~~his~~ the complaint that the certificate or master list has been duly filed by the auditor with respect to each parcel listed, that the amount of money with respect to

each parcel appearing to be due and unpaid is due and unpaid, and that there is a lien against each parcel, without setting forth any other or special matters. The prayer of the complaint shall be that the court issue an order that the land described in the complaint be sold in the manner provided in section 5721.19 of the Revised Code.

(1) Within thirty days after the filing of a complaint, the clerk of the court in which the complaint was filed shall cause a notice of foreclosure substantially in the form of the notice set forth in division (B) of section 5721.181 of the Revised Code to be published once a week for three consecutive weeks in a newspaper of general circulation in the county. In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure proceeding to the interested parties. If the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

After the third publication, the publisher shall file with the clerk of the court an affidavit stating the fact of the publication and including a copy of the notice of foreclosure as published. Service of process for purposes of the action in rem shall be considered as complete on the date of the last publication.

Within thirty days after the filing of a complaint and before the final date of publication of the notice of foreclosure, the clerk of the court also shall cause a copy of a notice substantially in the form of the notice set forth in division (C) of section 5721.181 of the Revised Code to be mailed by certified mail, with postage prepaid, to each person named in the complaint as being the last known owner of a parcel included in it, or as being a lienholder or other person with an interest in a parcel included in it. The notice shall be sent to the address of each such person, as set forth in the complaint, and the clerk shall enter the fact of such mailing upon the appearance docket. If the name and address of the last known owner of a parcel included in a complaint is not set forth in it, the auditor shall file an affidavit with the clerk stating that the name and address of the last known owner does not appear on the general tax list.

(2)(a) An answer may be filed in an action in rem under this division by any person owning or claiming any right, title, or interest in, or lien upon, any parcel described in the complaint. The answer shall contain the caption and number of the action and the serial number of the parcel concerned. The answer shall set forth the nature and amount of interest claimed in the parcel

and any defense or objection to the foreclosure of the lien of the state for delinquent taxes, assessments, charges, penalties, and interest as shown in the complaint. The answer shall be filed in the office of the clerk of the court, and a copy of the answer shall be served on the prosecuting attorney, not later than twenty-eight days after the date of final publication of the notice of foreclosure. If an answer is not filed within such time, a default judgment may be taken as to any parcel included in a complaint as to which no answer has been filed. A default judgment is valid and effective with respect to all persons owning or claiming any right, title, or interest in, or lien upon, any such parcel, notwithstanding that one or more of such persons are minors, incompetents, absentees or nonresidents of the state, or convicts in confinement.

(b)(i) A receiver appointed pursuant to divisions (C)(2) and (3) of section 3767.41 of the Revised Code may file an answer pursuant to division (B)(2)(a) of this section, but is not required to do so as a condition of receiving proceeds in a distribution under division (B)(1) of section 5721.17 of the Revised Code.

(ii) When a receivership under section 3767.41 of the Revised Code is associated with a parcel, the notice of foreclosure set forth in division (B) of section 5721.181 of the Revised Code and the notice set forth in division (C) of that section shall be modified to reflect the provisions of division (B)(2)(b)(i) of this section.

(3) At the trial of an action in rem under this division, the certificate or master list filed by the auditor with the prosecuting attorney shall be prima-facie evidence of the amount and validity of the taxes, assessments, charges, penalties, and interest appearing due and unpaid on the parcel to which the certificate or master list relates and their nonpayment. If an answer is properly filed, the court may, in its discretion, and shall, at the request of the person filing the answer, grant a severance of the proceedings as to any parcel described in such answer for purposes of trial or appeal.

(C) In addition to the actions in rem authorized under division (B) of this section and section 5721.14 of the Revised Code, an action in rem may be commenced under this division. An action commenced under this division shall conform to all of the requirements of division (B) of this section except as follows:

(1) The prosecuting attorney shall not cause a title search to be conducted for the purpose of identifying any lienholders or other persons with interests in the property subject to foreclosure, except that he the prosecuting attorney shall cause a title search to be conducted to identify any receiver's lien.

(2) The names and addresses of lienholders and persons with an interest in the parcel shall not be contained in the complaint, and notice shall not be mailed to lienholders and persons with an interest as provided in division (B)(1) of this section, except that the name and address of a receiver under section 3767.41 of the Revised Code shall be contained in the complaint and notice shall be mailed to the receiver.

(3) With respect to the forms applicable to actions commenced under division (B) of this section and contained in section 5721.181 of the Revised Code:

(a) The notice of foreclosure prescribed by division (B) of section 5721.181 of the Revised Code shall be revised to exclude any reference to the inclusion of the name and address of each lienholder and other person with an interest in the parcel identified in a statutorily required title search relating to the parcel, and to exclude any such names and addresses from the published notice, except that the revised notice shall refer to the inclusion of the name and address of a receiver under section 3767.41 of the Revised Code and the published notice shall include the receiver's name and address. The notice of foreclosure also shall include the following in boldface type:

"If pursuant to the action the parcel is sold, the sale shall not affect or extinguish any lien or encumbrance with respect to the parcel other than a receiver's lien and other than the lien for land taxes, assessments, charges, interest, and penalties for which the lien is foreclosed and in satisfaction of which the property is sold. All other liens and encumbrances with respect to the parcel shall survive the sale."

(b) The notice to the owner, lienholders, and other persons with an interest in a parcel shall be a notice only to the owner and to any receiver under section 3767.41 of the Revised Code, and the last two sentences of the notice to the owner shall be omitted.

(4) As used in this division, a "receiver's lien" means the lien of a receiver appointed pursuant to divisions (C)(2) and (3) of section 3767.41 of the Revised Code that is acquired pursuant to division (H)(2)(b) of that section for any unreimbursed expenses and other amounts paid in accordance with division (F) of that section by the receiver and for the fees of the receiver approved pursuant to division (H)(1) of that section.

(D) If the prosecuting attorney determines that an action in rem under division (B) or (C) of this section is precluded by law, then foreclosure proceedings shall be filed pursuant to division (A) of this section, and the complaint in the action in personam shall set forth the grounds upon which the action in rem is precluded.

(E) The conveyance by the owner of any parcel against which a

complaint has been filed pursuant to this section at any time after the date of publication of the parcel on the delinquent tax list but before the date of a judgment of foreclosure pursuant to section 5721.19 of the Revised Code shall not nullify the right of the county to proceed with the foreclosure.

Sec. 5721.25. All delinquent land upon which the taxes, assessments, penalties, interest, or charges have become delinquent may be redeemed before foreclosure proceedings have been instituted by tendering to the county treasurer an amount sufficient to pay the taxes, assessments, penalties, interest, and charges then due and unpaid and the costs incurred in any proceeding instituted against such parcel under section 5721.18 of the Revised Code as determined by the court.

After the institution of a foreclosure proceeding against such delinquent land and at any time prior to the filing of an entry of confirmation of sale pursuant to such proceeding, delinquent land may be redeemed by tendering to the county treasurer the amount of taxes, assessments, penalties, interest, and charges then due and unpaid, together with those costs of such proceeding allocable to such land as determined by the court.

After a judgment of foreclosure has been rendered with respect to delinquent land but prior to the time such land is first offered for sale pursuant to section 5721.18 of the Revised Code, any person entitled to redeem the land who has not previously defaulted on a written undertaking may pay the costs of such proceeding allocable to such land as determined by the court and enter into a written undertaking with the county treasurer for the payment of the taxes, assessments, penalties, interest, and charges found to be due and unpaid on such land by the judgment of foreclosure. ~~The undertaking shall be paid in five consecutive and equal semiannual installments together with the full amount of current taxes and assessments then payable at the times provided by sections 323.12 and 323.17 of the Revised Code. Upon application to the court rendering the judgment of foreclosure and upon good cause being shown, the court rendering the judgment of foreclosure may extend the terms of payment under any written undertaking entered into to redeem any delinquent land devoted to residential use upon application to the court and permit the payment of the undertaking in not more than ten consecutive and equal semiannual payments as prescribed by section 323.31 Of the Revised Code over a period not to exceed five years beginning on the earliest date delinquent taxes that are the subject of the undertaking were included in a certification under section 5721.011 Of the Revised Code; however, a person entering into an undertaking who owns and occupies residential real property may request, and the county treasurer shall allow, an undertaking providing for~~

payment in installments over a period of no fewer than two years beginning on that date. The court shall retain jurisdiction over the delinquent land until the total amount set forth in the written undertaking is paid, notwithstanding any conveyance of the land to another owner during the period that the written undertaking is outstanding.

If any installment payment of a written undertaking is not paid when due, the county treasurer shall, at the time the payment is due and unpaid, advise the court rendering the judgment of foreclosure, and the court shall order such land sold for the amount of taxes, assessments, penalties, interest, and charges then due and owing on such land in the manner provided in section 5721.19 of the Revised Code.

Upon the payment of each installment pursuant to any written undertaking, the county treasurer shall enter the amount of such payment on the tax duplicate, crediting it to the items of taxes, assessments, penalties, interest, and charges in the order in which such items became due. The county treasurer shall give a receipt for the amount paid to the person paying it, in the form prescribed by the tax commissioner. Such receipt shall show the application of the payment made and the amount of delinquent taxes, assessments, penalties, interest, and charges remaining unpaid.

Sec. 5721.30. If the county treasurer, by means of the remedies provided by law or otherwise, determines that delinquent lands containing or producing minerals or any rights to minerals, as separately listed and taxed from the fee of the soil pursuant to sections 5713.04, 5713.05, and 5713.06 of the Revised Code, have appeared on the delinquent land list and duplicate for five years and that taxes charged against those minerals or rights to minerals have become uncollectible, the county treasurer shall certify that determination, together with the reasons for the determination, to the county board of revision and the prosecuting attorney. If the board of revision and the prosecuting attorney determine that the taxes are uncollectible, the board of revision and the prosecuting attorney shall certify their finding to the county auditor, who shall cause the taxes to be stricken from the general tax list and duplicate of real and public utility property and from the delinquent tax list and duplicate.

SECTION 2. That existing sections 321.45, 323.12, 323.25, 323.31, 5711.33, 5715.39, 5719.03, 5721.14, 5721.18, and 5721.25 of the Revised Code are hereby repealed.

SECTION 3. Section 323.25 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 576 and Am. Sub. S.B. 332 of the 118th General Assembly, with the new language of neither of the acts shown in capital letters. Section 5721.14 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 387 and Am. Sub. H.B. 576 of the 118th General Assembly, with the new language of neither of the acts shown in capital letters. Section 5721.18 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 387 and Am. Sub. H.B. 576 of the 118th General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Sub. S. B. No. 59

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Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____